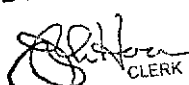


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
DEC 13 2005

CLERK

CHAD WHITE FEATHER, SR.,

Plaintiff,

vs.

DOUGLAS WEBER, Warden;
WARDEN DOOLEY;
DIANE ROMKIMA, Case Manager,
Mike Durfee State Prison; all defendants in
their official and unofficial capacities,

Defendants.

CIV. 05-4126

ORDER

Plaintiff filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983 on August 8, 2005. The Magistrate Judge issued a Report and Recommendation on November 14, 2005, recommending that Plaintiff's claim for release be dismissed without prejudice because release can be granted only in a habeas corpus lawsuit, not a § 1983 lawsuit.

Further, on November 14, 2005, the Magistrate Judge issued an Order Allowing Plaintiff to Amend Complaint. In the Order, various deficiencies were described regarding the remaining claims in Plaintiff's Complaint. Plaintiff was given an opportunity to amend the complaint on or before December 12, 2005, to correct the deficiencies.

Moreover, it appears Plaintiff has been discharged from the South Dakota State Penitentiary. The Magistrate Judge's Report and Recommendation and Order dated November 14, 2005, were returned with the notation that Plaintiff has been "discharged" from the South Dakota State Penitentiary. Plaintiff has not provided the court with his new address.


After conducting an independent review of the record, the Court agrees with the Magistrate Judge. Accordingly, it is hereby

ORDERED that:

1. The Report and Recommendation is ADOPTED. Plaintiff's claim for release is dismissed, without prejudice.
2. The balance of Plaintiff's claims are dismissed, without prejudice, for failure to state a claim upon which relief can be granted.

Dated this 13th day of December, 2005.

BY THE COURT:


Lawrence L. Piersol
Chief Judge

ATTEST:
JOSEPH HAAS, CLERK

By: Shirley Margulies, Deputy
(SEAL)